

**REMARKS**

The Office Action of September 8, 2004 considered claims 1-7, 15-19, 25-29, 36-38, and 42-44. Claims 8-14, 20-24, 30-35, 39-41, and 45-47 were subject to restriction, were not elected, and are herein cancelled.

5        Claims 15, 37 and 43 were rejected under 35 U.S.C. 102(e) as being anticipated by Anders Nystrom et al. (U.S. 6,189,123, "Anders Nystrom"). Claims 16-19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anders Nystrom as applied to claims 15, 37 and 43 and further in view of Ghosh et al. (U.S. 6,308,294). Claims 15-19, 37, and 43 are herein cancelled.

10        Claims 25-27, 38 and 44 were rejected under 35 U.S.C. 102(e) as being anticipated by Kalliojarvi (U.S. 6,438,723). Claims 28 and 29 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kalliojarvi in view of Anders Nystrom. Claims 25-27, 28-29, 38, and 44 have been cancelled.

15        Claims 1-7, 36 and 42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Anders Nystrom in view of Kalliojarvi. The office action cites Kalliojarvi at col. 11, lines 17-23, as teaching retransmitting at a second data rate different from a first data rate. This is incorrect. Kalliojarvi discloses retransmissions at different coding rates but does not disclose retransmitting at a different data rate. As disclosed in the specification of the present application, a different data rate may be achieved by changing the spreading factor. Alternately, a different data rate  
20        may be achieved by altering the constellation order, altering the symbol rate, or by another means. Kalliojarvi does not disclose altering the data transmission rate but instead discloses altering the coding rate. Thus, the combination of Anders Nystrom and Kalliojarvi does not render obvious claims 1-7, 36, and 42.

New claims 48-57 are directed to wireless transmission in which turbo coding and automatic retransmission operations using variable bit rates, variable coding rates, and differing parity bits is employed. New claims 48-57 include two independent claims and 10 total claims. Thus, no new claim fees are due. These new claims 48-57 are neither anticipated nor rendered  
5 obvious by the cited references.

All claims are now allowable and a notice of allowance is courteously solicited. Please direct any questions or comments to the undersigned attorney.

Respectfully submitted,

Date: February 8, 2005

By: 

Bruce E. Garlick, Reg. 36,520

**Garlick, Harrison & Markison, LLP**

P.O. Box 160727

Austin, Texas 78716-0727

(512) 264-8816 Voice

(512) 264-3735 FAX